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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,736	03/03/2004	Yoichi Hamada	Q80175	2647

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EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,736

Applicant(s)

HAMADA, YOICHI

Examiner

Melur Ramakrishnaiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10-25-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 5, 8-10, 15, 18-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. For example claim 5 recites the limitation such as: "said image processing checks whether said reception picture data is valid or invalid, sets said reception picture data as a reception display picture when it is determined that said reception picture data is valid, and retrieves said substitution picture data to set said substitution picture data as said reception picture when it is determined that said reception picture data is invalid, and outputs said reception display picture to said display section". This is inconsistent with the transmission procedure. According to transmission procedure recited in independent claims 1 and 11: At transmission stage data is tested for valid or invalid condition, when valid, only valid data is transmitted. If that is so, at the reception side only valid data is received without the need for checking validity of data at the reception side, but claim 5 recites checking the validity of data at the reception side even though only valid data is transmitted which is inconsistent with transmission procedure. Claims 8, 15, 11 have similar limitation as claim 5.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 7, 11-13, 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunoda et al. (JP10-098702, hereinafter Tsunoda) in view of Nakamura et al. (JP2002-354436, hereinafter Nakamura) and Inoue (JP2000-078545).

Regarding claim 1, Tsunoda discloses a picture phone apparatus comprising: an image picking section (2, Drawing: 1) which picks up a picture data, a display section (14, Drawing: 2), a substitution picture storage section (16, Drawing: 2) which stores a substitution picture data (paragraph: 0017), an image processing section in (18, Drawing: 2) which checks whether the picked up picture data is valid or invalid (this is implied by whether camera is in stored position or not), retrieves the substitution picture data from the substitution picture storage section to output as transmission picture when it is determined that picked up picture data is invalid, sets the picked up picture data as the transmission picture data when it is determined that the picked-up picture data is valid and transmitted to the other party (paragraphs: 0017-0032).

Tsunoda differs from claim 1 in that he does not show the following: encoding, multiplexing the encoded transmission picture data and transmission audio data and an image processing section which automatically checks whether the picked up picture data is valid or invalid.

However, Nakamura discloses video telephone apparatus which teaches the following: encoding, multiplexing the encoded transmission picture data and transmission audio data (Drawing: 1, paragraphs: 0007-0012); Inoue discloses video telephone device which teaches the following: an image processing section which automatically checks whether the picked up picture data is valid or invalid (0006-0010).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Tsunoda's system to provide for the following: encoding, multiplexing the encoded transmission picture data and transmission audio data as this arrangement would provide well known means for processing data for transmission and reception as taught by Nakamura; an image processing section which automatically checks whether the picked up picture data is valid or invalid as this arrangement would facilitate to automatically to determine what data has to be sent depending on conditions at the user terminal as taught by Inoue.

Regarding claim 11, Tsunoda discloses a picture data transmission method in a picture phone apparatus, comprising: picking up picture data, checking whether the picked-up picture data is valid or invalid (this is implied by whether camera is in stored position or not), transmitting the picked-up picture data as a transmission picture when it is determined that the picked up picture data is valid, and substitution picture data as the transmission picture data when it is determined the picked-up picture data is invalid, transmitting the transmission data to a counter station (paragraphs: 0017-0032).

Tsunoda differs from claim 11 in that he does not teach the following: encoding the picked up picture data and multiplexing the transmission picture data and

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transmission audio data; automatically checking whether the picked-up picture data is valid or invalid and transmitting required data accordingly.

However, Nakamura teaches the following: encoding the picked up picture data and multiplexing the transmission picture data and transmission audio data (Drawing: 1, paragraphs: 0007-0012); Inoue teaches the following: automatically checking whether the picked-up picture data is valid or invalid and transmitting required data accordingly (Drawing 1, Paragraphs: 0006-0010).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Tsunoda's system to provide for the following: encoding the picked up picture data and multiplexing the transmission picture data and transmission audio data as this arrangement would provide well known means for processing data for transmission and reception as taught by Nakamura; automatically checking whether the picked-up picture data is valid or invalid and transmitting required data accordingly as this arrangement would facilitate to automatically to determine what data has to be sent depending on conditions at the user terminal as taught by Inoue.

Regarding claims 2-3, 7, 12, 17, Tsunoda teaches the following: image processing section in (18, Drawing: 2) controls the display section to display transmission picture data, an operation section (15, Drawing: 2), wherein the image processing section outputs the transmission picture data to the communication processing section (reads on 12, Drawing: 2) when a picture transmission instruction is inputted from the operation section, substitution picture data is one of a still image data

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and video picture data, displaying the transmission picture data (paragraphs: 0017-0026).

Tsunoda differs from the claim 13 in that he does not teach the following: encoding the data.

However, Nakamura teaches the following: encoding the picked up picture data (Drawing: 1, paragraphs: 0007-0012).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Tsunoda's system to provide for the following: encoding the data as this arrangement would provide well known means for processing data for transmission and reception as taught by Nakamura.

5. Claims 4, 6, 14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunoda in view of Nakamura and Inoue as applied to claims 1 and 11 above, and further in view of Aida (JP 401213087A).

Regarding claims 4, 6, 14, and 16, the combination does not teach the following: image processing section determines whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data.

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: image processing section determines whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data as this arrangement would facilitate to determine validity or otherwise of the picture element for further action as taught by Ada, thus providing for transmission of valid image.

6. Claims 5, 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunoda in view of Nakamura, Inoue and Aida as applied to claims 1 and 11 above, as applied to claims 1, 11 above, and further in view of Kato et al. (JP2002-077840, hereinafter Kato).

Regarding claims 5 and 15, the combination teaches the following: an audio processing section (16, Drawing 1), speaker (17, Drawing 1), wherein communication processing section receives reception data, separates the reception data into reception picture data and reception audio data and outputs the reception picture data to the image processing section (7, Drawing 1) and the reception audio data to the audio processing section (16, Drawing 1), the audio processing section decodes reception audio data to produce an audio signals for an audio output (Drawing: 1, paragraphs: 0007-0012 of Nakamura); Aida teaches the following: image processing section checks whether the reception picture data is valid or invalid (fig. 1, see abstract); but combination does not teach the following: displaying the substitution picture data or received picture data depending on the whether the received data is invalid or valid.

However, Kato discloses communication terminal which teaches the following: displaying the substitution picture data or received picture data depending on the user's choice (paragraphs: 0026-0027).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: displaying the substitution picture data or received picture data depending on the whether the received data is invalid or valid as this arrangement would facilitate the user to display required picture to suite user needs as taught by Kato.

7. Claims 8-10, 18-20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Aida, Inoue and Kato.

Regarding claim 8, Nakamura discloses a picture phone apparatus comprising: a display section (5, Drawing 1), a substitution picture storage section (2, Drawing 1), an audio processing section (16, Drawing 1), an image processing section (7, Drawing 1), a speaker (17, Drawing 1), a communication processing section (9, Drawing 1) which receives reception data, separates reception data into reception picture data and reception audio data, and outputs the reception picture data to the image processing section and the reception audio data to the audio processing section, wherein audio processing section (16, Drawing 1) decodes the reception audio data to produce an audio signal and drives the speaker (17, Drawing 1) based on the audio signal for an audio output (paragraphs: 0007 – 0023).

Nakamura differs from claim 8 in that he does not teach the following: the image processing section checks whether the reception picture data is valid or invalid, sets the

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reception data as a reception display picture when it is determined that the reception picture data is valid, and retrieves the substitution picture data to set the substitution picture data as the reception display picture when it is determined that the reception picture data is invalid, and outputs the reception display picture to the display section.

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract); and Kato teaches the following: displaying the substitution picture data or received picture data depending on the user's choice (paragraphs: 0026-0027); and Inoue teaches the following: automatically checking the whether the data is valid or invalid (Drawing 1, paragraphs: 0006-0010).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nakamura's system to provide for the following: the image processing section checks whether the reception picture data is valid or invalid, sets the reception data as a reception display picture when it is determined that the reception picture data is valid, and retrieves the substitution picture data to set the substitution picture data as the reception display picture when it is determined that the reception picture data is invalid, and outputs the reception display picture to the display section as this arrangement would facilitate required picture display depending upon user needs; automatically checking the whether the data is valid or invalid as this arrangement would facilitate to automatically determine validity or otherwise of data for further action as taught by Inoue.

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Regarding claim 18, Nakamura discloses a picture data transmission method comprising: receiving reception data, separating the reception data into reception picture data and reception audio data (Drawing: 1, paragraphs: 0007 – 0023).

Nakamura differs from claim 18 in that he does not teach the following: checking whether the reception picture data is valid or invalid, and displaying the reception picture data when it is determined that the reception picture data is valid, and the substitution picture data when it is determined the reception picture data is invalid.

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract); and Kato teaches the following: displaying the substitution picture data or received picture data depending on the user's choice (paragraphs: 0026-0027); Inoue teaches the following: automatically checking the whether the data is valid or invalid (Drawing 1, paragraphs: 0006-0010).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nakamura's system to provide for the following: checking whether the reception picture data is valid or invalid, and displaying the reception picture data when it is determined that the reception picture data is valid, and the substitution picture data when it is determined the reception picture data is invalid as this arrangement would facilitate required picture display depending upon user needs; automatically checking the whether the data is valid or invalid as this arrangement

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would facilitate to automatically determine validity or otherwise of data for further action as taught by Inoue.

Regarding claims 10 and 20, Nakamura teaches the following: substitution picture data is one of still image data and video picture data (see abstract);

Regarding claims 9 and 19, Nakamura does not teach the following: image processing section determines/checks whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data

However, Aida discloses picture encoding/transmitting equipment which teaches the following: image processing section (3, fig. 1) determines whether the picked-up picture is valid or invalid, based on picture element taking-in range according to an average moving vector (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: image processing section determines/checks whether the picked-up picture is valid or invalid, based on at least one of brightness data of the picked-up picture data and frequency of the picked-up picture data as this arrangement would facilitate to determine validity or otherwise of the picture element for further action as taught by Ada, thus providing for transmission of valid image.

Response to Arguments

8. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

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Rejection of claims 5, 8-10, 15, 18-20 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement: Regarding rejection of these claims under 35 U.S.C. 112, first paragraph, Applicant has tried to explain various scenarios when transmit valid data becomes invalid data at the receiving side in the first paragraph of page 13 of his response dated 11-14-2005. None of these scenarios he has described are in the specification. Applicant further in an attempt to show support for this has remarked that subject matter of claims 5, 8-10, 15, and 18-20 is described throughout the specification, for example at page 11, lines 24 – page 12, line 9 and page 24, line 1-10, but the referred passages do not contain any of the scenarios applicant has invoked to show transmitted valid data become invalid data at the reception side. Therefore rejection of claims 5, 8-10, 15, 18-20 under 35 U.S.C. 112, first paragraph is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Melur Ramakrishnaiah
Primary Examiner
Art Unit 2643